

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
**PROCAPUI-PRODUTORES de CAMAROES de
ICAPUI LTDA.**

Plaintiff,

v.

**MARCIAL GERALD LAYANI, G. F. HIGGINS,
INC., THERESA HIGGINS, as Executrix of
the Estate of GERALD FRANCIS HIGGINS,
THOMAS HIGGINS, ROBERT HIGGINS,
RICHARD RUBIN and NOEL BLACKMAN,**

Defendants.

-----X
**G.F. HIGGINS, INC., THERESA HIGGINS, as
Executrix of the Estate of GERALD FRANCIS
HIGGINS, THOMAS HIGGINS and ROBERT
HIGGINS,**

**Third Party and
Supplemental Plaintiffs,**

v.

JOZEF ANAVIAN,

**Third Party and
Supplemental Defendant.**

-----X
SIRS:

**07 Civil Action
File No. 6627-BSJ
Mag. Judge Andrew
J. Peck**

**HIGGINS PARTIES'
NOTICE OF MOTION
FOR SANCTIONS
UNDER RULE 11(c)
F.R.Civ.P.**

PLEASE TAKE NOTICE that, if Plaintiff fails to withdraw the Complaint
and the Amended Complaint and the Third Affirmative Defense in its Reply to the

Counterclaims in the Higgins parties' Answer and Counterclaims and if the Third Party and Supplemental Defendant Jozef Anavian fails to withdraw the Third Affirmative Defense in his Answer, upon the annexed declaration of John J. Phelan, III, upon the exhibits thereto, upon the Complaint herein filed July 24, 2007, upon the First Amended Complaint filed February 21, 2008, upon the Motion to Dismiss the Amended Complaint filed March 6, 2008, upon the accompanying Memorandum of Law and upon all other papers and proceedings heretofore had herein, Defendants and Third Party Plaintiffs G.F. Higgins, Inc., Theresa Higgins as Executrix of the Estate of Gerald Francis Higgins, Thomas Higgins and Robert Higgins, by their undersigned attorney, will move this Court, before the Hon. Barbara S. Jones, in Room 18 B, United States Courthouse, 500 Pearl Street, New York, NY 10007 on the 9th day of May, 2008 at 9:30 o'clock in the forenoon of that day or as soon thereafter as counsel may be heard or at such other time and place as the Court may direct for an:

ORDER pursuant to Rule 11(c) F.R.Civ.P. imposing sanctions, including appropriate attorney's fees and costs of litigation, upon (i) Plaintiff; (ii) Plaintiff's counsel, Luigi P. DeMaio and DeMaio & Hughes, LLC; and (iii) Third Party Defendant, Jozef Anavian; and upon each of them, jointly and severally, on the grounds (a) that certain of the allegations of the Complaint and of the First Amended Complaint and of Plaintiff's Reply to the Answer and counterclaims of the Higgins

parties and of the Answer of Jozef Anavian to the Third Party Complaint have no evidentiary support, contrary to the certification in those pleadings required in Rule 11(b)(3) F.R.Civ.P.; that (b) those pleadings accuse the moving parties of egregious and illegal conduct which Plaintiff, Anavian and their counsel know to be unsupported by evidence; and that (c) they have refused to withdraw those allegations after demands made by the Moving Parties in both their earlier correspondence and in this Motion, and for such other and further relief, including the costs of this motion as the Court may deem just and proper.

Dated: New York, NY
March 21, 2008

Yours, etc.,
John J. Phelan, III, P.C.

By/S/John J. Phelan, III
John J. Phelan, III (JP8632)
Attorney for the Higgins Parties
1285 Avenue of the Americas
Suite 3500
New York, NY 10019
(212) 315-3082
jphelaniii@att.net

TO: Luigi P. DeMaio, Esq.
Attorney for Plaintiff and for
Third Party Defendant Anavian
DeMaio & Hughes, LLC
330 East 30th Street
New York, NY 10016
email: luigidemaio@netscape.net

Lawrence R. Loneragan, P.C.
Attorney for Defendant Rubin
275 Seventh Avenue
New York, NY 10001
email: lloneragan1@aol.com

Noel Blackman, *Defendant pro se*
14706 Hallwell Ct.
Cypress, TX 77429-2385
NoelBlackman@sbcglobal.net

CERTIFICATE OF SERVICE

JOHN J. PHELAN, III, hereby certifies that, on March 21, 2008, he served the within Notice of Motion for Sanctions, Declaration in Support and Memorandum of Law in Support on the following attorneys or parties by enclosing copies thereof in properly addressed postage paid envelopes and placing them in a facility under the exclusive care and custody of the United States Postal Service.

Luigi P. DeMaio, Esq.
Attorney for Plaintiff and for
Third Party Defendant Anavian
DeMaio & Hughes, LLC
330 East 30th Street
New York, NY 10016

Lawrence R. Lonergan, P.C.
Attorney for Defendant Rubin
275 Seventh Avenue
New York, NY 10001

Noel Blackman, *Defendant pro se*
14706 Hallwell Ct.
Cypress, TX 77429-2385

Dated: New York, NY
March 21, 2008

/S/ John J. Phelan, III
John J. Phelan, III